

NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

2008-1384

EZ GARD INDUSTRIES, INC.,

Plaintiff-Appellee,

v.

XO ATHLETIC CO.,

Defendant-Appellant.

and

PAUL J. ANDRE,

Defendant.

Judgment

ON APPEAL from the United States District Court for the District of Minnesota

in CASE NO(S). 07-CV-4769

This CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

Per Curiam (NEWMAN, LINN, and MOORE, Circuit Judges).

AFFIRMED. See Fed. Cir. R. 36.

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

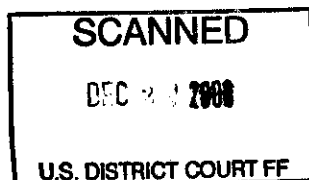
DEC 15 2008

JAN HORBALY
CLERK

ENTERED BY ORDER OF THE COURT

DATED DEC 15 2008

Jan Horbaly
Jan Horbaly, Clerk



RECEIVED BY MAIL

DEC 19 2008

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Clerk, U.S. District Court
Fergus Falls, Minnesota

United States Court of Appeals for the Federal Circuit

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EZ GARD INDUSTRIES, INC.,

Plaintiff-Appellee,

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XO ATHLETIC CO.,

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and

PAUL J. ANDRE,

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William L. Roberts, Faegre & Benson LLP, of Minneapolis, Minnesota, argued for plaintiff-appellee. With him on the brief were Kevin P. Wagner and Timothy E. Grimsrud.

Stephen M. Chin, von Simson & Chin LLP, of New York, New York, argued for defendant-appellant.

Appealed from: United States District Court for the District of Minnesota

Chief Judge James M. Rosenbaum

07-4769 Jmr/JJK
CLERK'S OFFICE COPY**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT****NOTICE OF ENTRY OF
JUDGMENT WITHOUT OPINION****RECEIVED BY MAIL**

JUDGMENT ENTERED: 12/15/08

DEC 16 2008

The judgment of the court in your case was entered today pursuant to Rule 36. This Court has entered the judgment or decision that was appealed. None of the relief sought in the appeal was granted. No opinion accompanied the judgment. The mandate will be issued in due course.

Information is also provided about petitions for rehearing and suggestions for rehearing en banc. The questions and answers are those frequently asked and answered by the Clerk's Office.

Costs are taxed against the Appellant(s) in favor of the Appellee(s) under Rule 39. The party entitled to costs is provided a bill of costs form and an instruction sheet with this notice.

The parties are encouraged to stipulate to the costs. A bill of costs will be presumed correct in the absence of a timely filed objection.

Costs are payable to the party awarded its costs. If costs are awarded to the government, they should be paid to the Treasurer of the United States. Where costs are awarded against the government, payment should be made to the person(s) designated under the governing statutes, the court's orders, and the parties' written settlement agreements. In cases between private parties, payment should be made to counsel for the party awarded costs or, if the party is not represented by counsel, to the party pro se. Payment of costs should not be sent to the court. Costs should be paid promptly.

Regarding exhibits and visual aids: Your attention is directed to FRAP 34(g) which states that the clerk may destroy or dispose of the exhibits if counsel does not reclaim them within a reasonable time after the clerk gives notice to remove them. (The clerk deems a reasonable time to be 15 days from the date the final mandate is issued.)

JAN HORBALY
Clerk

cc: Stephen M. Chin
William L. Roberts

EZ GARD V XO ATHLETIC, 2008-1384
DCT - MN, 07-CV-4769

